

THE FAYETTE COUNTY PLANNING COMMISSION met on June 5, 2003 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Public Meeting Room, First Floor, Fayetteville, Georgia.

MEMBERS PRESENT: Jim Graw, Chairman
Al Gilbert, Vice-Chairman
Bob Harbison
Bill Beckwith
Douglas Powell

MEMBERS ABSENT: None

STAFF PRESENT: Bill McNally, County Attorney
Kathy Zeitler, Director of Zoning/Zoning Administrator
Chris Venice, Director of Planning/Community Development Division Head
Delores Harrison, Zoning Technician
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator
Deputy Warren Chamberlin
Sgt. Earl Williams

Welcome and Call to Order:

Chairman Graw called the meeting to order and led the Pledge of Allegiance. He introduced the Board Members and Staff and confirmed there was a quorum present.

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1. Consideration of the Minutes of the meeting held on May 1, 2003.

Chairman Graw asked the Board Members if they had any comments or changes to the Minutes as circulated. Al Gilbert made the motion to approve the Minutes. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

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2. Consideration of the Workshop Minutes of the meeting held on May 1, 2003.

Chairman Graw asked the Board Members if they had any comments or changes to the Workshop Minutes as circulated. Bill Beckwith made the motion to approve the Workshop Minutes. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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3. Consideration of the Workshop Minutes of the meeting held on May 15, 2003.

Chairman Graw asked the Board Members if they had any comments or changes to the Workshop Minutes as circulated. Al Gilbert made the motion to approve the Workshop Minutes. Doug Powell seconded the motion. The motion unanimously passed 5-0.

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Chairman Graw explained to the audience that the Preliminary Plats on the agenda were to address the technical aspects of the subdivision of property which was already zoned, and only the technical aspects of the Preliminary Plats could be addressed by the public.

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THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ONLY ON JUNE 5, 2003.

4. **Consideration of Lake Yates Estates, John Yates, Owner, and Billy Brundage of Brundage Engineering, Inc., Agent. This property consists of 28.24 acres with three (3) single-family dwelling lots. This property is located in Land Lot 61 of the 4th District, fronts on Price Road, and is zoned A-R.**

John Yates requested approval of his preliminary plat as submitted on 05/20/03.

Chairman Graw asked if there were any public comments regarding the technical aspects of the preliminary plat. Hearing none, he closed the floor from public comments.

Chairman Graw asked when the construction of the barn indicated on the preliminary plat had begun.

Mr. Yates replied construction began approximately six (6) weeks ago.

Chairman Graw asked Staff if a barn was a permitted use.

Kathy Zeitler explained that the A-R zoning district does allow construction of a barn prior to the construction of a single-family dwelling due to the agricultural zoning.

Bob Harbison made the motion to approve the preliminary plat. Al Gilbert seconded the motion. The motion unanimously passed 5-0.

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Kathy Zeitler read the procedures that would be followed including the fifteen (15) minute time limitation for presentation and opposition for petitions.

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THE FOLLOWING ITEMS WILL BE CONSIDERED BY THE PLANNING COMMISSION ON JUNE 5, 2003 AND BY THE BOARD OF COMMISSIONERS ON JUNE 26, 2003.

5. **Consideration of Petition No. 1109-03, Richard and Diana Cates, Owners, and Attorney Thomas Fisher, Agent, request to rezone 5.224 acres from A-R to C-H to develop a Convenience Store and Retail Space. This property is located in Land Lot 151 of the 5th District and fronts on Banks Road and Hwy. 54 East.**

Attorney Thomas Fisher stated he was here on behalf of Richard and Diana Cates in this application to rezone certain property that they own in Fayette County which consists of 5.224 acres at the intersection of Banks Road and Hwy. 54 East. He advised that the property is currently zoned A-R and they desire to have it rezoned to C-H. He stated that they believe that the property is unacceptable for development under the A-R classification. He confirmed that a number of residential builders looked at the property and have given the opinion that it is not developable feasibly as a residential neighborhood. He remarked that due to the setbacks there is a need to have an interior road. He commented that others have examined the property for use as alternative A-R uses and again they have advised that those uses are not feasible. He said that they have already examined the property and Mr. & Mrs. Cates have already deeded right-of-way for the expansion of Hwy. 54 East which will be coming soon. He went on to say that their desire is to develop the property as C-H. Attorney Fisher reported that they agree that it is not in conformity with the Land Use Plan but it is also not developable as residential. He stated that it is their contention that the property would not adversely affect the existing uses of the surrounding property which are substantially residential. He pointed out that the surrounding properties all face into interior roads and do not face the property, plus there is a natural buffer already in existence and the concept plan

shows a 50 foot buffer with trees and other buffers. He commented that it is their contention that the rezoning will not overburden streets, utilities, or schools and the various attachments from the P.C. to them support that, although there is an issue concerning additional traffic. He added that in their development as a convenience store/retail space, he does not believe that people will be coming to this that would not otherwise be on these roads. He reported that there are a lot of roof tops in this area and those people who would be on the road anyway going to a convenience store or retail space somewhere else would be the ones to frequent the establishment. Again, he confirmed that Hwy. 54 East is due to be widened to four lanes going north which justifies and evidences that the County already anticipates increased traffic flow by having the four lane road; it is going to be there anyway so they are developing the road in anticipation of the traffic. He remarked that some of the comments indicated that the two curb cuts on Banks Road and the two curb cuts on Hwy. 54 East should be reduced to one curb cut per the County and the G.D.O.T. and obviously whatever they require is going to be what they require. Attorney Fisher stated that Brian Klutz from Robert and Company, the Engineer who developed the Concept Plan could answer any questions concerning the Site Plan. He remarked that it is conceptual and it is how they envision the property being used. He reiterated that they believe the property as A-R is not adequate zoning for the use of the property, that the highest and best use in their view would be a re-designation to C-H. He reported that there were comments as to the potential uses of the property such as a Tattoo Parlor and Pool Hall and if those are permitted uses in the zoning Mr. Cates has no intentions of having a Tattoo Parlor or a Pool Hall, however they are permitted uses within the zoning and again it is not his intentions to do that. He said that Mr. Cates is from this area and now lives in Coweta County. He went on to say that Mr. Cates grew up around that property and he knows the property well and he has no intentions of letting a Pool Hall or Tattoo Parlor or the like be built on the place. Based on all the foregoing, Attorney Fisher requested that the P.C. grant a recommendation of approval of their rezoning. He added that if the P.C. had any questions that he or Mr. Klutz would be happy to answer them.

Chairman Graw asked if there was anyone to speak in favor of the petition. Hearing none, he said that he assumed that many of the people were present to speak regarding this petition and asked for a show of hands of those who wished to speak in opposition. He suggested that they get two (2) or three (3) representatives for the group because only fifteen (15) minutes would be allowed for opposition, and with approximately eight people wanting to speak that was only about two (2) minutes each, which may not be enough time to get all the comments made.

Chairman Graw gave the group approximately two (2) minutes to decide who would speak. He asked that the ones wishing to speak have a seat on the front row.

Michael Frnka of 527 Banks Road presented the P.C. with four (4) pages of signatures on a Petition. He explained that he was the President of the Wellington Place Homeowners Association and represents the 54 families of that subdivision. He said that they have come to the meeting to voice their opposition to the proposed rezoning Petition No. 1109-03.

Mr. Frnka read the following: The Wellington Place Home Owners Association was founded in 1985 to promote social growth of the neighborhood, preserve property values, promote the health and welfare of the group and to speak as one voice. Today, some 18 years later the group still believes in this mission statement and remains a very active and vibrant part of this community.

Our association is very much opposed to Petition No. 1109-03 which is requesting to rezone 5.224 acres directly across from our subdivision at the corner of Highway 54 East and Banks Road. We have submitted a petition of about 60 names to you sir.

We oppose this petition for probably the same reasons you would when you consider the health and welfare of the citizens you represent. You may recall that our group worked diligently for nearly ten (10) years to obtain the traffic light at this intersection when it was always on the top ten (10) list of worst intersections in the County for accidents.

While this traffic light has decreased the number of accidents, I am sure it still remains on the list of concerned intersections in the County. I might also remind you that two (2) of our residents died at this intersection a few years ago.

Our subdivision has at least doubled in the amount of cut-through traffic based on traffic surveys since this intersection received the traffic signal and our main road, Banks Road East, has become a major race track for those exiting to Rivers Edge and other points in the Clayton County panhandle. An additional convenience store and retail center would only worsen this already bad situation; it would also mean more traffic problems for our neighborhood which has lately seen an increase in new families with small children. That is a very good sign. We do not want to see a repeat where someone in our neighborhood is hurt or killed due to the traffic problem that we already have.

Besides our traffic concern we are also in favor of keeping with the Land Use Plan for our County. At our last check of the map at this intersection was not earmarked for commercial development and it is our wish that it remains so.

A retail center at this intersection is only asking for additional traffic woes and traffic that is not very conducive to the family type neighborhood that we have enjoyed and developed over the past 18 years. I remind you of the recently built convenience store at the intersection of Hwy. 54 East at McDonough Road, less than one-half (1/2) mile from the petitioned property. Directly across from this location is also a proposed convenience store so I ask, how many retail stores do we need along the Hwy. 54 corridor? We do have a residence which directly faces the property in question also directly kitty-corner across from that and it doesn't really have much buffer naturally in front of it.

I urge you to uphold your duty and please turn this down. Thank you very much for your time.

Chairman Graw advised that Mr. Frnka wrote a letter to the P.C. which will become a part of the record.

Arnold Martin, III of 130 Deer Glen Drive stated he was a resident of Deer Glen Forest Subdivision. He advised that he was representing almost 100 homeowners that have been living in the neighborhood for up to almost 20 years. He said that the Deer Glen Subdivision is made up of almost 100 homes and as the previous gentlemen mentioned, the whole area is very much conducive to family life in a residential neighborhood. He commented that as was also stated that the zoning is truly based upon residential development, not commercial development. He remarked that it was also noted that as you have more commercial properties that come into the area and you take a look at convenience stores, that convenience stores have often been great subjects and targets of crime such as armed robbery and many other injustices which have been done that are brought to areas that are initially were not expecting this. He went on to say that the Attorney representing the owners of the property stated that the owners do not plan on putting in a Tattoo Parlor or any such items in this particular area, however we also know that the owner of the property can sell this property at any time and therefore will not have control and the residents will not have control of this. He added that the Attorney also mentioned the buffer zone which is highly constituted of dead or infected pine trees and therefore many of those trees would have to be cleared out also, so as he speaks of a 50 foot buffer zone that obviously would be significantly decreased. He said that the other factor mentioned was that the Cates did not feel that the marketability or property values would be adversely affected which is not the case. He advised that in any area where you have solely residential homes and you put a commercial property such as a convenience store or anything like that, that definitely adversely affects the marketability because no one wants to move into an area where there is convenience stores or other stores like that which could attract a negative element. He stated that this should be kept as a residential property with residential zoning and that the residents want to keep the integrity of the neighborhood.

Rick Escarra of 135 Oak Manor stated that he represented The Oaks Subdivision. He advised that he was currently the President of the subdivision and had been a member of The Oaks Home Owners Association since it was formed and also a resident in the subdivision for nearly 8 years. He said that

today they are faced with something which they feel would tremendously impact a quality of life or property values, as well as safety. With respect to what was just mentioned not to repeat certain things, he remarked that traffic was a concern to the subdivision since they had had numerous accidents while trying to exit the subdivision, so the invitation for more commercial property and growth will certainly adversely affect the exiting of their subdivision, so they are very much concerned about the traffic count that this particular location will bring to them. In the area of safety, he commented that they were concerned about the safety of the environment in respect to a convenience store having gasoline pumps there is an issue with the gasoline leakage of the tanks which has been something which has come up numerous times with gasoline stations having leakage of their gasoline pumps, therefore there are environmental concerns there as well. He added that the 24 hours of potential that this location could bring would adversely affect of course the safety of their children and potentially become a place where people would gather for late hours and so forth. He said the noise in the area would be affected also for the neighboring homes even with the buffers which have been mentioned. He said that future development in their subdivision would be drastically affected by potential homeowners seeking their subdivision which is still in the growing stages and they still have a developer in their location and they have future development of their homes and they feel very strongly that the added commercial property so close by will certainly affect that opportunity as well and the diminishing of the property values. He stated that he did not see any commercial closer than the community park, which is the last commercial property which we recognize which is a gasoline station and it has been noted that they had an extremely large drug bust which took place there since the completion of the building. He added that the other commercial development is not seen until you reach Hwy. 19/41. He asked the P.C. to deny the rezoning.

Linda Brem Braender of 110 Deer Forest Trail stated she had been a resident of Deer Glen Subdivision for 25 years and was one of the people who helped organize the Home Owners Association. She said she was here obviously to speak out against the construction of the convenience store and gas station for numerous reasons. She commented that she would not repeat the ones which had already been stated. She remarked that her neighbors who live across the street would be faced with glaring lights, lots of noise, and 24 hour activity in their back yard and there would be no kind of buffer that could stop this. She confirmed that no one living in Deer Glen, The Oaks, Wellington Place, or the other neighborhoods had such things in their back yards on a regular basis. Secondly, she said she would like to address what had been somewhat alluded to which is what she calls the "Clayton County Spillage Problem". She explained that Clayton County students are coming over the border in droves and attending Fayette County schools. She went on to say that she understood that this is not under the P.C.'s direct supervision but a convenience store would be a great place for them to drop off their children so they could get on the school bus because they are already using Deer Glen and Wellington Place as drop off points. She confirmed that she knew this because she has recorded license numbers and she is also a teacher in the Fayette County School System and has been for 25 years at Fayette County High. She added that she has seen five (5) of her students involved in accidents at this corner and to have two (2) more cut offs there would be disastrous to them. She urged the P.C. to think about the quality of life which they and their family enjoy in Fayette County and please preserve that for them.

Bonnie Myers of 120 Oak Knoll said she lived in The Oaks and was on the Board of Directors. She explained that they have only one (1) entrance/exit from their subdivision and as Hwy. 54 East stands now, it is extremely difficult for them to get in and out since there is no light and it doesn't seem to be an anticipation that they will have a light. She stated that if Hwy. 54 East is truly widened to four lanes that their challenge is going to be extreme, and if you add another commercial business that is going to be turning in and out of there then there will be more traffic problems than can ever be resolved. She remarked that trying to get in and out of their subdivision, especially for their teenage drivers, will be almost impossible because it is extremely difficult now, because she has sat for as long as three (3) minutes trying to turn out of her subdivision, and if you allow a commercial property to come within 500 feet of their entrance, in addition to the things which they have already reiterated, then they will have a real challenge for all of them and particularly their young people who are driving and inexperienced. She added that they are very hopeful that the P.C. will not allow this

and allow them to continue to enjoy the quality of life which they all sought when they came to The Oaks to become homeowners.

In rebuttal, Attorney Fisher explained that this property was effectively isolated when the County re-routed Banks Road. He pointed out that it used to go along the long triangle and then it was re-routed effectively isolating this property. He confirmed that his client has owned this property for also 20 years without being able to use it. He said that he has paid his taxes and it seems that the nearby residents have taken it for granted that it is a buffer for them, but unfortunately it is his property. He stated that the County has zoned it in a way that they can't use, and he is entitled to have a rezoning to it's highest and best use. He pointed out that the traffic flow in and out of the store can be regulated and it will. He remarked that this is done every day of the week with one way on to Banks Road to turn left onto Hwy. 54 and no exit is done every day of the week which is why you have an Engineer and the D.O.T. review it. He commented that the buffer is a 50 foot buffer and the County is going to require a 50 foot buffer with planting if there are dead trees. He added that the County would require the proper buffer. In regard to the issue of traffic, Attorney Fisher said that Hwy. 54 East is going to be widened and the traffic is going to be there. He remarked that having lived in a subdivision that he realizes the problem of pulling out where you don't have a light on a major road and the residents should petition the County or the D.O.T. to be please put in a light. He confirmed that the County has adopted a Zoning Ordinance that allows certain uses in certain zoning classifications. He went on to say that if the citizens of the County don't like a Tattoo Parlor, Massage Parlor, or a Pool Hall which are permitted uses then maybe the zoning laws should be changed to provide them to be Conditional Uses or require a special permit or certain other restrictions. He reported that his client has been approached by Brusters, banks, Eckerds, Walgreens, and those type stores to go into this facility and he is not going to put in Bobby's Pool Hall. He confirmed that the citizens are correct that if the property was sold then he would not be there to develop it, but this is a decision involving the zoning classifications. He reiterated that this property is not suitable as A-R, it's highest and best use is C-H. He added that he is entitled to have his property rezoned so that he can develop it in accordance with the zoning regulations.

At this time, Chairman Graw closed the floor from public comments.

Bob Harbison made the motion to rezone the subject property from A-R to R-40. Doug Powell seconded the motion.

Mr. Harbison stated that R-40 is the same zoning that the public currently have on their property and it is only fair that Mr. Cates have the same zoning as what is surrounding it.

Al Gilbert said that the P.C. has spent a lot of time over the last several months looking at the Land Use Plan particularly in this area, and it has pretty well been a consensus among everyone that this is a residential area, and the agreement has been to maintain this as a residential area making the R-40 very appropriate for the area.

Bill Beckwith pointed out that by doing this the P.C. is not denying the property the use of his land but allowing a different category that is commensurate with the surrounding property which is entirely appropriate in this case.

Doug Powell remarked that Staff made a very accurate assessment and a very comprehensive assessment in their Analysis.

Chairman Graw commented that he has been on the P.C. for about 7 years and he has always taken the position that when property owners buy they look at the surrounding properties when they are buying and he assumed that they saw that the property was zoned A-R. He said that if he were to buy and see a piece of property zoned A-R and then somebody came in and wanted to zone it commercial that it would be a complete surprise to him so he doesn't like surprises and he doesn't think they should be surprised either. He added that he has always taken the position that unless there is a very overriding reason to go against that.

At this time, Chairman Graw called for the vote. The motion for R-40 was unanimously passed 5-0.

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Chairman Graw called for a break at 7:41 P.M. He reconvened the Public Hearing at 7:48 P.M.

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6. Consideration of proposed amendments to the Fayette County Zoning Ordinance regarding Article VI. District Use Requirements, Section 6-1. A-R Agricultural-Residential District, B. Permitted Uses and E. Special Regulations.

Chairman Graw explained that this amendment is a continuation from last month. He advised that a public hearing with public input had been held and also a Workshop after the public hearing, therefore public input was not necessary.

Bob Harbison asked Kathy Zeitler if she had any comments on the changes.

Mrs. Zeitler advised that all the changes had been made as discussed at the Workshop.

Bob Harbison made the motion to approve the proposed amendments. Bill Beckwith seconded the motion. The motion unanimously passed 5-0.

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Chairman Graw asked if there was any further business.

Chris Venice advised that in a recent issue of the Fayette County Citizen there was an article which summarized a report that the Fayette County Development Authority had prepared by Robert, Charles, Lester, and Company regarding market opportunity analysis and site ratings. She pointed out that the study looked for appropriate sites for office, Class A, and industrial opportunities around the County. She confirmed that she had received a copy of the entire report and presented the P.C. with a summary. She noted that one of the areas referred to was S.R. 54 and since the P.C. had been talking about the corridor in the Workshops, she wanted the P.C. to have a copy. She reported that the topic is still on-going and will be discussed along with the Land Use Plan at the next Workshop.

Kathy Zeitler reminded the P.C. of the Workshop scheduled for June 19, 2003 at 7:00 P.M. to discuss an amendment to the definition of Building Height and how it will be measured, and the Land Use Plan. She advised that several applications had been submitted for the June 30, 2003 Public Hearing. She reminded the P.C. that the July 3, 2003 public hearing had been rescheduled to June 30, 2003 due to the 4th of July holiday.

Bob Harbison advised that he would be absent from the Workshop.

There being no further business, Bob Harbison made the motion to adjourn the meeting. Al Gilbert seconded the motion. The motion for adjournment unanimously passed 5-0. The meeting adjourned at 7:53 P.M.

PLANNING COMMISSION

OF

FAYETTE COUNTY

ATTEST:

JIM GRAW
CHAIRMAN

ROBYN S. WILSON
SECRETARY